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HOUSE BILL NO. 2098

House Amendments in [] — February 3, 1997

A *BILL to amend and reenact § 15.1-292 of the Code of Virginia, relating to communications system networks.*

Patron—Johnson

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.1-292 of the Code of Virginia is amended and reenacted as follows:**

§ 15.1-292. General powers of counties, cities and towns as to public utilities; pollution of water.

A. The governing body of every county, city and town may acquire or otherwise obtain control of or establish, maintain, operate, extend and enlarge waterworks, gas works, electric plants, public mass transportation systems, and other public utilities within or without the limits of the county, city or town and may acquire within or without the limits of the county, city or town by purchase, condemnation or otherwise whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending or enlarging waterworks, gas works, electric plants, and other public utilities or public transit or transportation systems, and the rights-of-way, rails, pipes, poles, conduits or wires connected therewith, or any of the fixtures or appurtenances thereof. But no county, city or town shall have the right to acquire by condemnation the steam and electric plants, gas and waterworks, or waterpower and fixtures and appurtenances, or any part thereof, owned and operated in whole or in part on February 18, 1908, by any manufacturing corporation or public service corporation, for the purpose of acquiring, establishing, maintaining, operating or enlarging its electric plant or waterworks. Such governing body may also prevent the pollution of water and injury to waterworks for which purpose their jurisdiction shall extend to five miles about the same and may make, erect and construct, within or near the county, city or town, drains, sewers and public ducts and acquire within or without such county, city or town, by purchase, condemnation or otherwise, so much land as may be necessary to make, erect, construct, operate and maintain any of the works or plants mentioned in this section. In the exercise of the powers granted by this section and by § 15.1-293, counties, cities and towns shall be subject to the provisions of § 25-233 to the same extent as are corporations. The provisions of this section shall not be construed to confer upon any county, city or town the power of eminent domain with respect to any public utility owned or operated by any other political subdivision of this Commonwealth. The provisions of this section shall not be construed to exempt counties, cities and towns from the provisions of Chapters 12 (§ 56-273 et seq.), 12.3 (§ 56-338.40 et seq.) and 12.4 (§ 56-338.50 et seq.) of Title 56. [*For purposes of this section, "public utilities" includes a communications system network which may provide cable, telephone, data transmission, or other information or on-line programming services. In addition to the powers contained herein, a county, city or town may construct and operate facilities solely for the provision of data transmission service by and between its offices, schools, and other public buildings; however, no county, city or town may acquire such facilities by use of the power of eminent domain.*]

B. The governing body of a county, city or town may not (i) acquire, by purchase, condemnation or otherwise, all of a public utility's facilities, equipment or appurtenances for the production, transmission or distribution of natural or manufactured gas, or of electric power, within the limits of such county, city or town, or (ii) take over or displace, in whole or in part, the utility services provided by such gas or electric public utility to customers within the limits of such county, city or town, unless first authorized by a majority of the voters voting in a referendum held in such county, city or town on the question of whether or not such facilities, equipment or appurtenances should be acquired or such services should be taken over or displaced; however, the provisions of this subsection shall not apply to the use of energy generated from landfill gas in any city with a population between 64,000 and 69,000 or in any county with a population of at least 500,000. In no event, however, shall a county, city or town be required to hold a referendum in order to provide gas or electric service to its own facilities. Notwithstanding any provision of this subsection, a county, city or town may acquire public utility facilities or provide services to customers of a public utility with the consent of the public utility. No city or town which provided electric service as of January 1, 1994, shall be required to hold such a referendum prior to the acquisition of a public utility's facilities, equipment or appurtenances used for the production, transmission or distribution of electric power or to the provision of services to customers of a public utility. Nothing in this subsection shall be deemed to (i) create a property right or property interest or (ii) affect or impair any existing property right or property interest of a public utility.

ENGROSSED

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